IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO.256 OF 1999

Sadashiv Bhaskar Nadkarni,
aged 65 years, married, retired
Govt. employee,
r/o. Cardozo Building.,
1st Floor, Block-B,
Near Bus Stand, Patto, Panaji, Goa. .... Petitioner.

Vs.

1. The Special Land Acquisition
Officer (S), Salaulim Irrigation
Project, I.D. Complex, Gogol,
Margao, Goa.

2. The State of Goa,
through the Chief Secretary
to the Government of Goa,
having his Office at Secretariat,
Panaji, Goa. .... Respondents.

Mr. R.G. Ramani, Advocate for the petitioner.

Mr. H. Bharne, Govt. Advocate for the respondents.

CORAM : F.I. REBELLO &
P.V. HARDAS, JJ.

DATE : AUGUST 12, 2003.

ORAL JUDGMENT : (Per REBELLO, J.)

The petitioner being aggrieved by the communication dated 19.2.1999 by the Special Land Officer refusing to redetermine the compensation under Section 28-A of the Land Acquisition Officer, has preferred the present petition. It is the case of the petitioner that various plots of land belonging to him

situated in the Village of Xelpem and Village Salaulim were subject-matter of the Notification dated 2.12.1971. The petitioner did not apply for reference. However, one Shri Nadkarni applied for a reference and the reference Court enhanced the compensation by Award dated 18.8.1986. That award was, ultimately, set aside and the matter remanded, whereupon a fresh award came to be passed on 12.10.1990.

2. The petitioner, after the Award of 18.8.86, within time,applied for redetermination of the compensation under Section 28-A of the Land Acquisition Act. After order of remand on 12.10.1990, a fresh application was made on 7.1.1991. On 28.2.92, 22/1/96 and 23.1.96, Awards came to be made in respect of several other plots, in respect of which the petitioner had sought redetermination. However, in respect of the remaining plots, the same was rejected for the reasons set out in the communication dated 27.12.1998.

3. An affidavit has been filed on behalf of the respondent by one Damodar B. Shanke. In paragraph 4, it is set out that plots No.24 and 138 of Xelpem Village, no compensation was granted as the land in question was not covered under the award of the reference Court in L.A.C. No.387/81 and as regards the

other plots in Village Salaulim, no compensation was granted for the reasons that the compensation was accepted without protest in the original award.

4. In so far as second contention is concerned, the matter is now covered by the Judgment of the Apex Court in the case of **Union of India and anr. vs Hansoli Devi and ors.,** (2002) 7 SCCs 273. The Apex Court has held that even if a person has not made an application to the Collector under Section 18, then irrespective of whether he had received, with or without protest, the compensation pursuant to the award of Land Acquisition Officer, he would be a "person aggrieved" entitled to make an application under Section 28-A. The contention of the respondent on that count has to be rejected. As regards the other contention in so far as the plots No.24 and 138 are not covered under the award of the reference Court is concerned, that really could not be a ground to reject the application. At the highest, that could be a ground that it was not covered by Notification of 2.12.1971, which consequently culminated into an award.

In the light of that, the petition will have to be allowed. Rule made absolute in terms of prayer Clause (a). The entire exercise to be completed within a period of three months from today.

F.I. REBELLO, J.

P.V. HARDAS, J.

ssm.